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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 97,022-B2-CO)

Initial Application of:

Dunlay, et al.

Serial No.: 10/686,161

Filed: October 15, 2003

For: A System for Cell-Based Screening

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Examiner: To be assigned

Art Unit: 1641

Confirmation No.: 6805

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Sir:

1. We are transmitting herewith the attached papers for the above identified patent application:

- Transmittal (in duplicate);
- Information Disclosure Statements (IDS) and 1449 Forms in compliance with the continuing duty of candor as set forth in 37 CFR section 1.56 pursuant to 37 CFR section 1.98(d) (sheets);
- Return Receipt Postcard.

2. With respect to fees:

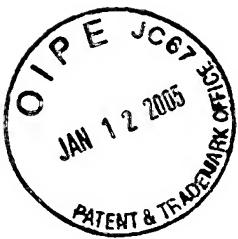
- No fee required.

3. **GENERAL AUTHORIZATION TO CHARGE OR CREDIT FEES:** Please charge any additional fees or credit overpayment to Deposit Account No. 13-2490. A duplicate copy of this sheet is enclosed.

4. **CERTIFICATE OF MAILING BY "EXPRESS MAIL" UNDER 37 CFR § 1.10:** The undersigned hereby certifies that this Transmittal Letter and the papers, as described in paragraph 1 herein-above, are being deposited with the United States Postal Service with sufficient postage as "Express Mail Post Office to Addressee" in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 12th day of January, 2005. Express Mail No. EV595490362US.

By: 

David S. Harper
Reg. No. 42,636



PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 97,022-B2-CO)**

In application of:

R. Terry Dunlay, et al.)	Examiner: TBA
Serial No. 10/686,161)	Group Art Unit: 1641
Filed: October 15, 2003)	Confirmation No.: 6805
For: A System for Cell-Based Screening)	

INFORMATION DISCLOSURE STATEMENT

**Honorable Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450**

Dear Sir:

Pursuant to 37 C.F.R. Section 1.97 - 1.99, the Applicant wishes to make the following references of record in the above-identified application. This Information Disclosure Statement is in compliance with the continuing duty of candor as set forth in 37 C.F.R. Section 1.56. Pursuant to 37 C.F.R. §1.98(d), copies of references numbered 1-193 are not provided herewith, since they were previously filed in the parent application serial no. 09/724,376.

Applicants do not believe any fee is due with this submission. If this belief be in error and the Patent Office determines that the fee prescribed in the relevant portion of 37 C.F.R. Section 1.97 is applicable, the undersigned attorney by his signature hereby authorizes any such fee to be debited from Deposit Account 13-2490.

- within three months of the filing date of a national application; within three months of the date of entry into the national stage as set forth in 37 C.F.R. § 1.491 in an international application; or before the mailing date of a first Office Action on the merits. 37 C.F.R. §1.97 (b)
- after three months of the filing date of a national application, or the date of entry into the national stage as set forth in 37 C.F.R. § 1.491 in an international application; or after the mailing date of a first Office Action on the merits, but before the mailing date of a Final Action under 37 C.F.R. § 1.113 or a Notice of Allowance under 37 C.F.R. § 1.311 (whichever occurs first), and includes (37 C.F.R. § 1.97 (c):
 - the Certification under 37 C.F.R. § 1.97(e) (see “Certification” below)

OR

- the fee of \$180.00 set forth in 37 C.F.R. § 1.17(p) (see “Fees” below).
- after a Final Action under 37 C.F.R. § 1.113 or a Notice of Allowance under 37 C.F.R. § 1.311 (whichever occurs first), but before, or simultaneously with, the payment of the issue fee, and includes the Certification under 37 C.F.R. § 1.97(e) (see “Certification” below), and the Petition Fee set forth in 37 C.F.R. § 1.17(i) (see “Fees” and “Method of Payment of Fees” below). Applicants hereby petitions for consideration of the Information Disclosure Statement submitted herewith and the accompanying references in examination of the subject patent application.

CERTIFICATION

- The **undersigned** hereby certifies that each item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign patent application not more than three months prior to the filing of the Information Disclosure Statement.
- The **undersigned** hereby certifies that no item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign patent application or, to the knowledge of the person signing the certification after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of the Information Disclosure Statement.

FEES

No fee is owed by the applicant(s).
 The **IDS Fee of \$180.00** under 37 C.F.R. § 1.17(p) is enclosed herewith.
 The **Petition Fee of \$130.00** set forth in 37 C.F.R. § 1.17(i) is enclosed herewith.

METHOD OF PAYMENT OF FEES

Attached is a check in the amount of \$180.00.
 Charge Deposit Account No. 13-2490 in the amount of \$. (A duplicate copy of this communication is enclosed for that purpose.)

Please charge any underpayment or credit any overpayment in connection with this communication to Deposit Account No. 13-2490. A duplicate copy of this communication is enclosed for this purpose.

CERTIFICATE OF MAILING AS "EXPRESS MAIL" (37 CFR 1.10) I hereby certify that this correspondence and all attached paper(s) or fee(s) is being deposited with sufficient postage, with the United States Postal Service as EXPRESS MAIL POST OFFICE TO ADDRESSEE in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, with sufficient postage, on this 1/12/05 Day of January, 2005. under Express Mail Certificate No. **EV595490362US**.

Respectfully submitted,

Date: 1/12/05



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McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive
Chicago, IL 60606

I. United States Patents

1. Chalfie et al., United States Patent No. 5,491,084, issued February 13, 1996.
2. Harpold et al., United States Patent No. 5,401,629, issued March 28, 1995.
3. Harpold et al., United States Patent No. 5,436,128, issued July 25, 1995.
4. Horan et al., United States Patent No. 4,783,401, issued November 8, 1998.
5. Horan et al., United States Patent No. 4,762,701, issued August 9, 1988.
6. Horan et al., United States Patent No. 4,859,584, issued August 22, 1989.
7. Dunlay et al., United States Patent No. 5,989,835, issued November 23, 1999.
8. Taylor, United States Patent No. 6,103,479, issued August 15, 2000.
9. Hozier, United States Patent No. 5,326,691, issued July 5, 1994.
10. Winkler, et al., United States Patent No. 5,384,261, Issued January 24, 1995.
11. Ivarrson, et al., United States Patent No. 5,313,264, Issued May 17, 1994.
12. Jansson, et al., United States Patent No. 4,673,988, Issued June 16, 1987.
13. Leaback, United States Patent No. 5,096,807, Issued March 17, 1992.
14. Lockhart, et al., United States Patent No, 5,556,752, Issued September 17, 1996.
15. Pirrung, et al., United States Patent No. 5,143,854, Issued September 1, 1992.
16. Georger, et al., United States Patent No. 5,324,591, Issued June 28, 1994.
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19. Hoisington, et al., United States Patent No. 5,502,467, Issued March 26, 1996.
20. Hemstreet, et al., United States Patent No. 4,982,739, Issued January 8, 1991.
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IV. Pending U.S. Applications

	<u>Serial No.</u>	<u>Filing Date</u>	<u>Author</u>
188.	09/293,210	April 16, 1999	R. Terry Dunlay, et al.

V. Co-Pending Applications

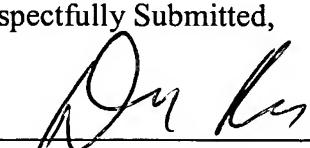
	<u>Serial No.</u>	<u>Filing Date</u>
189.	09/723,256	November 27, 2000
190.	09/718,770	November 22, 2000
191.	09/721,168	November 22, 2000
192.	10/100,957	March 19, 2002
193.	09/716,732	November 20, 2000

VI. Discussion

In accordance with MPEP sections 609 and 707.05(b), it is requested the document cited (including any cited in applicant's specification which is not repeated on the attached Form PTO-1449) be given thorough consideration and that it be cited of record in the prosecution history of the present application by initialing on Form PTO-1449. Such initialing is requested even if the Examiner does not consider a cited document to be sufficiently pertinent to use in a rejection, or otherwise does not consider it to be prior art for any reason, or even if the Examiner does not believe that the guidelines for citation have been fully complied with. This is requested so that each document becomes listed on the face of the patent issuing on the present application.

Respectfully Submitted,

Date: 1-12-05



David S. Harper, Ph.D.
Registration No. 42,636

97,022-B2-CO

10/686,161

Applicant: R. Terry Dunlay, et al.

Filing Date:

October 15, 2003

Group:

1641

INFORMATION DISCLOSURE
STATEMENT BY APPLICANT
(Use several sheets if necessary)

U.S. PATENT DOCUMENTS

Examiner Initial		Document Number	Date	Name	Class	Subclass	Filing Date if Appropriate
	1.	5,491,084	02/13/96	Chalfie et al.			
	2.	5,401,629	03/28/95	Harpold et al.			
	3.	5,436,128	07/25/95	Harpold et. al.			
	4.	4,783,401	11/8/98	Horan, et al.			
	5.	4,762,701	08/09/88	Horan et al.			
	6.	4,859,584	08/22/89	Horan et al.			
	7.	5,989,835	11/23/99	Dunlay et al.			
	8.	6,103,479	08/15/00	Taylor			
	9.	5,326,691	7/5/94	Hozier			
	10.	5,384,261	1/24/95	Winkler et al.			
	11.	5,313,264	5/17/94	Ivarsson et al.			
	12.	4,673,988	6/16/87	Jansson et al.			
	13.	5,096,807	3/17/92	Leaback			
	14.	5,556,752	9/17/96	Lockhart et al.			
	15.	5,143,854	9/1/94	Pirring et al.			
	16.	5,324,591	6/28/94	Georger et al.			
	17.	5,233,369	8/3/93	Carlotta et al.			
	18.	5,486,855	1/23/96	Carlotta et al.			
	19.	5,502,467	3/26/96	Hoisington et al.			
	20.	4,982,739	1/8/91	Hemstreet et al.			
	21.	5,031,797	7/16/91	Boris et al.			

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication.

U.S. PATENT DOCUMENTS

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	23.	5,571,410	11/5/96	Swedberg et al.			
	24.	5,500,071	3/19/96	Kaltenbach			
	25.	4,344,816	8/17/82	Craighead et al.			
	26.	5,581,487	12/3/96	Kelly et al.			
	27.	5,567,294	10/22/96	Dovichi et al.			
	28.	5,527,673	6/18/96	Reinhartz et al.			
	29.	5,548,661	8/20/96	Price et al.			
	30.	5,355,215	10/11/94	Schroeder et al.			
	31.	5,670,113	9/23/97	Akong et al.			
	32.	5,732,150	3/24/98	Zhou et al.			
	33.	5,790,710	8/4/98	Price et al.			
	34.	5,885,840	3/23/99	Kamentsky et al.			
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	36.	5,107,422	4/21/92	Kamentsky et al.			
	37.	4,647,531	3/3/87	Kamentsky et al.			
	38.	5,919,646	7/6/99	Okun et al.			

FOREIGN PATENT DOCUMENTS

		Document Number	Date	Country	Class	Subclass	Translation Yes	Translation No
	39.	WO 96/27675	9/12/96	PCT				
	40.	WO 96/23898	8/8/96	PCT				
	41.	WO 95/21191	08/10/95	PCT				
	42.	WO 95/07463	3/16/95	PCT				
	43.	WO 96/09598	03/28/96	PCT				
	44.	WO 94/11841	5/26/94	PCT				
	45.	WO 87/02802	5/7/87	PCT				

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						Yes No
46.	4(1992)-69776	3/4/92	Japanese			X
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PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 97,022-B2-CO)**

In application of:

R. Terry Dunlay, et al.

Examiner: TBA

Serial No. 10/686,161

Group Art Unit: 1641

Filed: October 15, 2003

Confirmation No.: 6805

For: A System for Cell-Based Screening

INFORMATION DISCLOSURE STATEMENT

**Honorable Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450**

Dear Sir:

Pursuant to 37 C.F.R. Section 1.97 - 1.99, the Applicant wishes to make the following references of record in the above-identified application. This Information Disclosure Statement is in compliance with the continuing duty of candor as set forth in 37 C.F.R. Section 1.56. Copies of the references cited below are enclosed. These references are also listed on the enclosed PTO Form 1449.

In the judgment of the undersigned, portions of the listed references may be material to the Examiner's consideration of the presently pending claims. However, the references have not been reviewed in sufficient detail to make any other representation and, in particular, no representation is intended as to the relative relevance between references, whether cited in this or prior statements. This statement is not a representation that the listed references have effective dates early enough to be "prior art" within the meaning of 35 U.S.C. Section 102 or Section 103.



within three months of the filing date of a national application; within three months of the date of entry into the national stage as set forth in 37 C.F.R. § 1.491 in an international application; or before the mailing date of a first Office Action on the merits. 37 C.F.R. §1.97 (b)



after three months of the filing date of a national application, or the date of entry into the national stage as set forth in 37 C.F.R. § 1.491 in an international application; or **after** the mailing date of a first Office Action on the merits, but **before** the mailing date of a Final Action under 37 C.F.R. § 1.113 or a Notice of Allowance under 37 C.F.R. § 1.311 (whichever occurs first), and includes (37 C.F.R. § 1.97 (c):

the Certification under 37 C.F.R. § 1.97(e) (see “Certification” below)

OR

the fee of \$180.00 set forth in 37 C.F.R. § 1.17(p) (see “Fees” below).



after a Final Action under 37 C.F.R. § 1.113 or a Notice of Allowance under 37 C.F.R. § 1.311 (whichever occurs first), but before, or simultaneously with, the payment of the issue fee, and includes the Certification under 37 C.F.R. § 1.97(e) (see “Certification” below), and the Petition Fee set forth in 37 C.F.R. § 1.17(i) (see “Fees” and “Method of Payment of Fees” below). Applicants hereby petitions for consideration of the Information Disclosure Statement submitted herewith and the accompanying references in examination of the subject patent application.

CERTIFICATION



The **undersigned** hereby certifies that each item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign patent application not more than three months prior to the filing of the Information Disclosure Statement.



The **undersigned** hereby certifies that no item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign patent application or, to the knowledge of the person signing the certification after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of the Information Disclosure Statement.

FEES

No fee is owed by the applicant(s).
 The IDS Fee of \$180.00 under 37 C.F.R. § 1.17(p) is enclosed herewith.
 The Petition Fee of \$130.00 set forth in 37 C.F.R. § 1.17(i) is enclosed herewith.

METHOD OF PAYMENT OF FEES

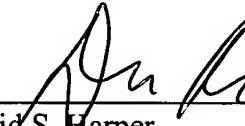
Attached is a check in the amount of \$180.00.
 Charge Deposit Account No. 13-2490 in the amount of \$. (A duplicate copy of this communication is enclosed for that purpose.)

Please charge any underpayment or credit any overpayment in connection with this communication to Deposit Account No. 13-2490. A duplicate copy of this communication is enclosed for this purpose.

CERTIFICATE OF MAILING AS "EXPRESS MAIL" (37 CFR 1.10) I hereby certify that this correspondence and all attached paper(s) or fee(s) is being deposited with sufficient postage, with the United States Postal Service as EXPRESS MAIL POST OFFICE TO ADDRESSEE in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, with sufficient postage, on this 1/25/ Day of January, 2005. under Express Mail Certificate No. **EV595490362US**.

Respectfully submitted,

Date: 1/22/05



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U.S. Patent Documents

1. Lee, et al., U.S. Patent No. 5,627,908, Issued in May 6, 1997.
2. R. Terry Dunlay, et al., U.S. Patent No. 6,620,591, Issued on September 16, 2003.
3. R. Terry Dunlay, et al., U.S. Patent No. 6,727,071, Issued on April 27, 2004.
4. Richard Rubin, et al., U.S. Patent No. 6,759,206, Issued on July 6, 2004.
5. R. Terry Dunlay, et al., U.S. Patent No. 6,573,039, Issued on June 3, 2003.
6. Kenneth Giuliano, et al., U.S. Patent No. 6,416,959, Issued on July 9, 2002.
7. Paul Sammak, et al., U.S. Patent No. 6,716,588, Issued on April 6, 2004.
8. R. Terry Dunlay, et al., U.S. Patent No. 6,671,624, Issued on December 30, 2003.

U.S. Published Applications

9. R. Terry Dunlay, et al., US2003-0204316-A1, Published on October 30, 2003.
10. R. Terry Dunlay, et al., US2004-0009539-A1, Published on January 15, 2004.
11. Richard Rubin, et al., US2004-0101912-A1, Published on May 27, 2004.
12. Kenneth Giuliano, et al., US2003-0096322-A1, Published on May 22, 2003.

In accordance with MPEP sections 609 and 707.05(b), it is requested the document cited (including any cited in applicant's specification which is not repeated on the attached Form PTO-1449) be given thorough consideration and that it be cited of record in the prosecution history of the present application by initialing on Form PTO-1449. Such initialing is requested even if the Examiner does not consider a cited document to be sufficiently pertinent to use in a rejection, or otherwise does not consider it to be prior art for any reason, or even if the Examiner does not believe that the guidelines for citation have been fully complied with. This is requested so that each document becomes listed on the face of the patent issuing on the present application.

Respectfully Submitted,

Date: 1-12-05



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97,022-B2-CO

10/686,161

INFORMATION DISCLOSURE
STATEMENT BY APPLICANT

(Use several sheets if necessary)



Applicant:

R. Terry Dunlay, et al.

Filing Date:

October 15, 2003

Group:

1641

U.S. PATENT DOCUMENTS

Examiner Initial		Document Number	Issued Date or Publication Date	Name	Class	Subclass	Filing Date if Appropriate
	1.	5,627,908	May 6, 1997	Shih-Jong J. Lee, et al.			September 20, 1994
	2.	6,620,591	September 16, 2003	R. Terry Dunlay, et al.			April 16, 1999
	3.	6,727,071	April 27, 2004	R. Terry Dunlay, et al.			February 27, 1998
	4.	6,759,206	July 6, 2004	Richard Rubin, et al.			July 12, 1999
	5.	6,573,039	June 3, 2003	R. Terry Dunlay, et al.			August 29, 2000
	6.	6,416,959	July 9, 2002	Kenneth Giuliano, et al.			February 25, 2000
	7.	6,716,588	April 6, 2004	Paul Sammak, et al.			December 8, 2000
	8.	6,671,624	December 30, 2003	R. Terry Dunlay, et al.			November 27, 2000
	9.	2003-0204316-A1	October 30, 2003	R. Terry Dunlay, et al.			May 6, 2003
	10.	2004-0009539-A1	January 15, 2004	R. Terry Dunlay, et al.			April 11, 2003
	11.	2004-0101912-A1	May 27, 2004	Richard Rubin, et al.			October 15, 2003
	12.	2003-0096322-A1	May 22, 2003	Kenneth Giuliano, et al.			March 19, 2002

FOREIGN PATENT DOCUMENTS

		Document Number	Date	Country	Class	Subclass	Translation	
							Yes	No

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication.